

**STATE OF SOUTH CAROLINA**

**BEFORE THE PUBLIC SERVICE COMMISSION**

**Docket No. 2021-\_\_\_\_\_ - C**

In the Matter of:

Application of Windstream Communications, LLC  
for Designation as Eligible Telecommunications  
Carrier to Receive Rural Digital Opportunity Fund  
Auction (Auction 904) Support for Voice and  
Broadband Services and Request for Expedited  
Consideration

**APPLICATION OF WINDSTREAM  
COMMUNICATIONS, LLC  
FOR ELIGIBLE  
TELECOMMUNICATIONS  
CARRIER DESIGNATION**

Windstream Communications, LLC, (“WC” or the “Company”) hereby petitions the South Carolina Public Service Commission (the “Commission”) for designation as an Eligible Telecommunications Carrier (“ETC”) covering four (4) census block groups in twenty-seven (27) eligible census blocks located in Jasper and Spartanburg Counties (collectively, the “Census Blocks” and each, individually, a “Census Block”) identified in the exhibits herein. This application is submitted pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended (the “Act”),<sup>1</sup> Sections 54.201 and 54.202 of the Federal Communications Commission (“FCC”) rules,<sup>2</sup> and the Commission’s requirements in S.C. Code Regs. 103-690. WC’s request for ETC designation relates to a subset of funded census blocks under the FCC’s Rural Digital Opportunity Fund Phase I Action (Auction 904) (the “RDOF Auction”).

Here, the Company submits this application seeking service authority covering those areas within the above-referenced Census Blocks. As demonstrated below, the Company meets all of

<sup>1</sup> 47 U.S.C. § 214(e)(2)

<sup>2</sup> 47 C.F.R. §§ 54.201 and 54.202.

the statutory and regulatory requirements for designation as an ETC to serve the Census Blocks and granting the Company's request serves the public interest. The Company further requests that the Commission grant this application expedited review and approval. In this case, under the RDOF Auction terms, WC must have ETC approval by June 7, 2021.<sup>3</sup>

## **I. Introduction**

WC, by itself and through its affiliates, meets the requirements of ETC designation. WC complies or will comply with the requirements under Section 214(e)(2) of the Act, provides all of the services and functionalities supported by the federal universal service program under 47 C.F.R. § 54.101 and will do so in the Census Blocks that are the subject of this application, and, except as expressly waived, meets or certifies that it will meet South Carolina regulatory requirements under Commission Regulation 103-690.

Windstream further certifies that if designated as an ETC for the Census Blocks, it will use the awarded high-cost support to: assist with expansion of its coverage within these unserved areas; provide increased quality of service to those customers; and increase the reliability, speed and delivery of services to these areas. Additionally, high-cost support will enable Windstream to provide Lifeline and discounted service to qualifying low-income customers who reside within the Census Blocks. For all those reasons, discussed further herein, WC requests that the Commission approve it as an ETC for the Census Blocks.

## **II. Designated Contacts and Information**

The designated contacts for questions concerning this application are:

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<sup>3</sup> See *infra* n. 14.

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### **III. The Company**

#### **A. Company Overview**

WC is a Delaware limited liability company with a place of business at 4001 North Rodney Parham Road, Little Rock, Arkansas 72212. WC is authorized by the Commission to provide local exchange telecommunications services in South Carolina.<sup>4</sup> WC is authorized to do business in South Carolina, and copies of its registration as a company doing business in South Carolina are on file with Secretary of State.

The Company has been previously authorized and approved as a competitive local exchange carrier in South Carolina.<sup>5</sup>

Applicant WC is a wholly owned subsidiary of Windstream Holdings II, LLC (hereinafter, “Windstream”) and Windstream Services, LLC (hereinafter, “Windstream Services”), both Delaware limited liability companies also headquartered at the same address as WC. Windstream,

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<sup>4</sup> See Commission Docket No. 2005-399-C, including Commission Order 2015-863 of December 16, 2015.

<sup>5</sup> See Office of Regulatory Staff’s “Competitive Local Exchange Carrier (CLEC) Listing as of July 10, 2019,” available at <https://ors.sc.gov/sites/default/files/Documents/Regulatory/electricNaturalGas/Electricity/CLEC%207-10-19.pdf> (last visited March 15, 2021).

through its subsidiaries and affiliates, is a leading provider of advanced network communications and technology solutions for consumers, small businesses, enterprise organizations and carrier partners across the U.S. Windstream provides voice and data services that enhance the communication capabilities of businesses throughout South Carolina. In addition, the operating Windstream subsidiaries supply core transport solutions on a nationwide local and long-haul fiber network currently spanning approximately 150,000 route miles. Windstream's consumer and small business segment includes approximately 1.4 million residential and small business customers that receive voice, broadband, entertainment, and security solutions. Windstream's enterprise business segment offers services such as software-defined wide area networking ("SD-WAN") and unified communications as a service ("UcaaS") to businesses across the U.S.

Windstream is committed to closing the digital broadband divide in the United States by working to provide greater access to voice and broadband services in unserved, rural, and or high-cost areas. Being awarded over \$523 million in RDOF funding across 18 states, Windstream plans to bring fiber-to-the-home to nearly 200,000 locations. Within six years of receipt of funding, the approximate \$523 million of Windstream Services' total RDOF funding will help enable its affiliates to expand the availability of its network and services to RDOF census blocks across the United States and to offer a new competitor in the marketplace.

Windstream does not provide telecommunications services in its own right. Rather, it owns and operates a number of licensed telecommunications providers in all states and the District of Columbia, many of which also hold authority from the Federal Communications Commission ("FCC") to provide domestic interstate and international telecommunications services. Applicant WC is South Carolina-licensed and one of the telecommunication service providers owned by Windstream.

WC has operated as a local exchange provider in the state and as a long-distance provider for almost 15 years.<sup>6</sup> WC's ILEC affiliate has operated in South Carolina for 116 years. Combined, WC and its other CLEC and ILEC affiliates have provided telecommunications services for over 100 years. WC is managed by the same company officers and management team that oversees its affiliates. WC's affiliates also have successfully participated in federal broadband programs such as the Connecting America Fund (both phases) and the Rural Utilities Service program. In addition, WC's affiliates have previously and continue to participate in state broadband expansion programs. As a result, WC has the necessary experience to implement and execute the requirements both under the RDOF program, as well as federal and state ETC obligations.

#### **B. Company Financial and Technical Qualifications**

In 2020, Windstream and its subsidiaries generated nearly \$5 billion in revenue. WC will draw upon Windstream's financial capability and its extensive communications and network engineering resources. In addition, WC will continue to leverage the operational, managerial, and technical expertise of Windstream to perform billing, installation, customer service, and other needs related to providing services in South Carolina and the Census Blocks.

WC intends to use a proven fiber-to-the-premise network architecture to deliver broadband and voice services to potential customers in the Census Blocks. WC's affiliates have extensive experience in deploying this type of network, as it has constructed and deployed this same network to over 477,000 consumer and business locations in 18 states. Subscriber voice traffic will transit the highly redundant, all-fiber network of Windstream and its affiliates to connect with the

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<sup>6</sup> See Commission Docket No. 2005-399-C.

Windstream-owned switching network, which currently supports nearly 2 million voice lines across 18 states.

#### **IV. Background: RDOF and Expedited ETC Review**

##### **A. RDOF Auction and Results**

On February 7, 2020, the FCC issued the *Rural Digital Opportunity Fund Report and Order*,<sup>7</sup> which established the framework for the RDOF Auction. Under the program, service providers compete to receive up to \$20.4 billion by committing to offer voice and broadband services in unserved, high-cost areas.<sup>8</sup> If successful, the RDOF would help connect millions of rural homes and businesses to high-speed broadband networks and help close the digital divide in the U.S.<sup>9</sup>

On December 7, 2020, the FCC issued a Public Notice officially announcing the results of competitive bidding in the RDOF Auction.<sup>10</sup> Among the winners, the FCC selected Windstream Services as a winning bidder in a total of 152 locations in 27 designated Census Blocks outside of its ILEC footprint in South Carolina.<sup>11</sup> This award would result in WC receiving RDOF support funds totaling \$253,740.00 over the next ten years.<sup>12</sup>

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<sup>7</sup> See generally *Rural Digital Opportunity Fund; Connect America Fund*, Order, 35 FCC Rcd 686 (2020) (“RDOF Auction Order”).

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> See *Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes; Winning Bidder Announced; FCC Form 683 Due January 29, 2021*, AU Docket No. 20-34, WC Docket Nos. 19-126 and 10-90, Public Notice, DA 20-1422, (rel. Dec. 7, 2020) (“Auction 904 Results Notice”).

<sup>11</sup> *Id.* at Attachment A, p. 29.

<sup>12</sup> *Id.*

## **B. Winning Bids Assigned to WC**

Per the FCC's procedures for the RDOF Auction, winning bidders could divide and/or wholly assign their bids to affiliated operating companies.<sup>13</sup> Windstream Services assigned its winning RDOF Auction bids for the Census Blocks to WC, an approved CLEC and provider of communication services in South Carolina. As assignee of the South Carolina bids, WC must satisfy certain public interest requirements, including eventual designation as an ETC for the respective RDOF Census Blocks originally awarded to Windstream Services. The FCC's deadline for WC to submit appropriate documentation of their ETC designations is June 7, 2021.<sup>14</sup>

## **C. Need for Expedited ETC Designation**

In order to be eligible for RDOF funds, WC must be designated as an ETC in the Census Blocks. The FCC's rules for the RDOF Auction did not require that participants be an ETC as of the initial short-form application filing deadline.<sup>15</sup> Instead, a company that is awarded support is expected to obtain an ETC designation for the areas covered by its successful bids within 180 days after being announced as a winning bidder.<sup>16</sup> Winning bidders must submit appropriate documentation of such ETC status to the FCC.<sup>17</sup> As noted, WC has been selected as a winning bidder in the RDOF Auction for 27 eligible census blocks in South Carolina. Because the timeframe for WC to obtain ETC designation is short and the consequences of failure to do so would prevent WC from expanding service to the Census Blocks, WC respectfully requests that

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<sup>13</sup> See *Rural Digital Opportunity Fund Phase I Auction Scheduled for October 29, 2020; Notice and Filing Requirements and Other Procedures for Auction 904*, Public Notice, FCC 20-77, 35 FCC Rcd 686 (June 11, 2020) ("*Auction 904 Procedures PN*"), at ¶ 43.

<sup>14</sup> See *Auction 904 Results Notice*, at ¶ 36. In the event WC is unable to obtain the ETC designation by the deadline, WC may petition for waiver of the deadline to the FCC upon a showing of good faith effort to obtain an ETC designation but that the proceeding is not yet complete. *Id.*, at ¶ 37.

<sup>15</sup> *Auction 904 Procedures PN*, at ¶ 136.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

the Commission review this application promptly and grant ETC designation to WC on an expedited basis.

**V. WC Satisfies All Requirements for ETC Designation**

**A. Background: Authority to Designate WC as an ETC**

Section 214(e)(2) delegates primary responsibility for granting ETC status to individual states. Provided that the requesting carrier meets the requirements of Section 214(e)(1) of the Act, a state may designate one or more common carriers as eligible telecommunications carriers for a service area when “consistent with the public interest, convenience, and necessity.”

WC is a “common carrier” as defined in the Act.<sup>18</sup> WC currently provides telecommunications service as a common carrier in various areas throughout South Carolina and seeks designation to cover the Census Blocks.

WC’s request for designation as an ETC in these areas is in the public interest, as it provides real benefits to consumers in unserved areas by increasing the availability of needed services and technologies that might otherwise be unavailable or only at high cost. As such, WC’s plan to provide service in these Census Blocks is consistent with public interest, convenience, and necessity.

As further discussed below, WC meets all the requirements set forth in Section 214(e), as well as South Carolina-specific requirements under the Commission’s Rules, for designation as an ETC in the Census Blocks at issue.

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<sup>18</sup> See 47 USC § 153(11). This section, in relevant part, defines a common carrier as “any person engaged as a common carrier for hire, in interstate or foreign communication by wire or radio or in interstate or foreign radio transmission of energy[.]”



## **B. WC Satisfies All Federal Requirements for ETC Designation**

Section 214(e) of the Act requires a carrier seeking ETC designation to certify that it offers services supported by the federal universal service support mechanisms under Section 254(c) using either its own facilities or a combination of its own facilities and the resale of services of another carrier. Section 214(e) further requires the carrier to advertise the availability and charges for such services using media of general distribution.

WC hereby commits and certifies that it will offer, either directly or through an affiliate, voice and broadband services to those areas within the Census Blocks. WC will further ensure that both the availability and costs for such services will be advertised using appropriate media. WC further commits that it will use federal universal service support only for the provision, maintenance, and upgrading of facilities and services for which the universal service support is intended. *See* 47 U.S.C. § 254(e) and 47 C.F.R. § 54.7(a).

### **1. WC Fiber Will Offer Supported Services Through its Own Facilities or Through a Combination of its Own Facilities and Affiliates**

To be designated as an ETC, a carrier must offer, whether through its own facilities or a combination of its own facilities and those of another carrier, those services which are supported under universal support mechanisms, as outlined in 47 C.F.R. § 54.101. In compliance with that section of the FCC's regulations, WC will offer the following telephone services and functionalities that are supported by federal universal service support mechanisms:

- Voice grade access to a public switched network;
- Local service provided at no additional charge to end users;
- Access to emergency services; and
- Toll limitation for qualifying low-income consumers.

WC will offer its voice service as a standalone service and at rates that are reasonably comparable to urban rates, in its respective RDOF Census Blocks. *See* 47 U.S.C. § 254(b)(3); 47 C.F.R. § 54.313(a)(3).<sup>19</sup>

Regarding broadband and Lifeline services, WC will also offer these services in the Census Blocks, doing so as discussed herein and in accordance with any requirements under law.

WC will offer and provide the above-listed services within the Census Blocks through its own facilities or through those of its affiliates. *See* 47 U.S.C. 214(e)(1); 47 C.F.R. § 201(d).

Voice Grade Access, Local Usage, Emergency Services, and Toll Limitation. WC certifies that it will provide “voice grade access to the public switched network or its functional equivalent” throughout areas in the Census Blocks using its facilities-based network. 47 C.F.R. § 54.101(a). WC’s customers will have the ability to place and receive calls to and from other WC customers and to and from all other users on the public switched telephone network. WC will provide this voice grade access to its customers through its interconnected, all-fiber network and Windstream’s wholly owned switching network. The service offered by WC will include minutes of use for local service provided at no additional charge to end users (specifically, WC’s service plans will offer unlimited usage within the United States); and access to emergency services via 911 and E-911, where implemented by local government or other public safety organizations. 47 C.F.R. § 54.101(a). WC will also provide toll limitation services to qualifying low-income consumers or may charge the same prices for toll and non-toll calls in accordance with the FCC’s rules. 47 C.F.R. § 54.101(a).

Broadband Services. WC’s broadband Internet access service provides the capability to transmit data to, and receive data from, all or substantially all Internet endpoints, including any

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<sup>19</sup> *See also RDOF Auction Order*, at ¶ 42.

capabilities that are incidental to and enable the operation of the communications. End user connections will be routed to a local or regional exchange, where WC will interconnect through an Internet exchange point that carries traffic to all or substantially all Internet end points. WC will offer such broadband services in the Census Blocks, doing so in accordance with applicable high-cost service support rules under 47 C.F.R. § 54.101(c) and any other requirements, including those stemming from the RDOF Auction's terms.<sup>20</sup>

WC commits to providing telephone and broadband services consistent with applicable high-cost universal service support rules and will meet the service requirements for RDOF Phase I support. 47 C.F.R. § 54.101(c). WC will also offer at least one standalone voice plan and one service plan that provides high speed broadband. These plans will be offered at rates that are reasonably comparable to rates offered in urban areas.<sup>21</sup> WC will be responsible for providing customer care, providing quality of service guarantees, and meeting the FCC's universal service fund-related requirements.<sup>22</sup> WC also will make available Lifeline services to qualifying low-income consumers pursuant to the FCC's rules at all locations in South Carolina where it is authorized to receive RDOF support.<sup>23</sup>

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<sup>20</sup> Effective February 8, 2021, the FCC issued revised § 54.101 deleting broadband services. *See* 47 C.F.R. § 54.101 (2021). Nonetheless, consistent with the RDOF Auction and other high-cost service support rules, WC will provide broadband in the Census Blocks.

<sup>21</sup> *See RDOF Order*, at ¶¶ 42-43.

<sup>22</sup> *See WCB Reminds Connect America Fund Phase II Auction Applicants of the Process for Obtaining a Federal Designation as an Eligible Telecommunications Carrier*, Public Notice, WC Docket No. 09-197 et al., 33 FCC Rcd 6696, 6698 (WCB 2018) ("*ETC Designation Public Notice*"); *see also RDOF Auction Procedures PN* at 6129, para. 139

<sup>23</sup> *See* 47 C.F.R. § 54.101(d) and 54.405(a); *see also RDOF Auction Procedures PN*, 35 FCC Rcd at 6128 (stating, "[e]ach Auction 904 support recipient must offer Lifeline voice and broadband service throughout the eligible areas covered by its winning bids to qualifying low-income consumers pursuant to the Lifeline program rules.").

## 2. WC Will Advertise the Availability of the Supported Services

In accordance with Section 214(e)(1)(B) of the Act, WC certifies that it will advertise the availability of the services that are supported by the federal universal support mechanisms, described above, and their applicable charges using media of general distribution within the service areas for which it is seeking to be designated as an ETC. WC will advertise these offerings in a manner that is designed: to fully inform potential customers of the services available to them; to disclose all associated rates; and to ensure qualifying low-income individuals are informed about the availability and cost of Lifeline programs. In further support of this certification, WC has also submitted the affidavit of its President of Kinetic Division, Jeff Small which is attached hereto as **Exhibit C**.

## 3. WC Satisfies Additional FCC Criteria for ETC Designation

The FCC's March 17, 2005, *ETC Criteria Order* sets forth certain additional elements for ETC applications.<sup>24</sup> The applicable FCC criteria, promulgated at 47 C.F.R. § 54.202(a), require that an ETC applicant must:

- Certify it will comply with the service requirements applicable to the support that it receives;
- Submit a five-year plan that describes with specificity proposed improvements or upgrades to the applicant's network throughout its proposed service area;
- Demonstrate the ability to remain functional in emergency situations; and
- Demonstrate that it will satisfy applicable consumer protection and service quality standards.

*See* 47 C.F.R. § 54.202(a)(1)-(3).

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<sup>24</sup> *See Federal-State Board on Universal Service*, CC Docket 96-45, Report and Order, 20 FCC Rcd 6371 (March 17, 2005) ("*ETC Criteria Order*").

**a. WC Will Comply with Service Requirements Applicable to the Support it Receives**

Pursuant to 47 C.F.R. § 54.202(a)(1)(i), WC hereby certifies that it will comply with the service requirements applicable to the supported services that it will be offering in the Census Blocks. Upon request, WC will provide timely service to all customers within the Census Blocks where WC's network will provide coverage. If a potential customer is within WC's licensed area but outside of its existing network coverage, WC will work to provide service at a reasonable cost. WC further certifies that it will comply with any applicable requirements for service specific to the RDOF Auction.

**b. Five-Year Plan Requirement Has Been Waived**

Normally, the FCC requires that an ETC applicant submit a five-year plan describing proposed improvements or upgrades to the applicant's network throughout its proposed service area. In this case, the FCC has waived the requirement that RDOF Auction winning bidders submit a five-year service improvement plan.<sup>25</sup> Accordingly, WC need not specifically demonstrate the existence of a five-year plan, as the underlying objective of furthering service access and public interest will be verified and assured through mechanisms specific to the Census Blocks and the RDOF Auction.

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<sup>25</sup> For recipients of Connect America Fund ("CAF") Phase II support, the FCC waived the requirement that winning bidders seeking an FCC ETC designation file a five-year improvement plan and demonstrate that it will satisfy applicable consumer protection and service quality standards. *See Connect America Fund*, et al., WC Docket No. 1090 et al., Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 5949 (2016) (*CAF Phase II Auction Order*) at ¶¶ 157-68. Similarly, for purposes of the RDOF, the FCC incorporated by reference the analysis of forbearance factors that it considered and found warranted in CAF Phase II. *See RDOF Auction Order* at ¶ 95 & n. 271 and internal citations. *See also Auction 904 Procedures PN*, at ¶ 136 & n. 308.

**c. WC Will Remain Functional During Emergencies**

WC certifies that it is able to function in emergency situations as required under 47 C.F.R. § 54.202(a)(2). WC's voice and broadband network is designed to remain functional in emergency situations without an external power source, will remain functional using backup power, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations as required. *See* 47 C.F.R. § 54.202(a)(2). WC further monitors its networks with sophisticated equipment capable of detecting disruptions caused by emergency situations that allow WC to respond quickly.

**d. WC Will Meet Consumer Protection and Service Quality Standards**

The FCC provides that an ETC applicant must “demonstrate that it will satisfy applicable consumer protection and service quality standards.” 47 C.F.R. § 54.202(a)(3). The FCC, however, waived the requirement that bidders seeking ETC designation certify that they will satisfy consumer protection and service quality standards.<sup>26</sup> Despite the waiver, WC hereby certifies that it is complying and will comply with all applicable service quality standards and consumer protection rules, including complying with Lifeline service standards pursuant to 47 C.F.R. § 54.408 and minimum broadband speed requirements, data usage allowance, and accessibility to WIFI devices.

**C. WC Satisfies All Applicable South Carolina Requirements for ETC Designation**

**1. WC Satisfies Applicable Requirements under Regulation 103-690.C.**

Commission Regulation 103-690.C. provides the requirements for designation as an ETC. The state ETC regulation generally tracked the corresponding federal regulations at the time the state regulation was promulgated in 2008. Since then, however, the federal regulations have

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<sup>26</sup> *See supra*, n. 25.

substantially changed. Moreover, certain federal requirements, even if still in place, have been waived in connection with the RDOF Auction here. Accordingly, individual state-specific requirements, which may apply by default, have to be reviewed individually to determine whether they are appropriate in the specific case of WC and the Census Blocks.

Service Commitment to the Proposed Area. As discussed above in Section V.B.1 and elsewhere in the application, WC commits to providing service throughout its proposed designated service area to all customers making a reasonable request for service, as required by R. 103-690.C.(a)(1)(A).

Service Improvement Plan. In light of the FCC's waiver of a five-year plan, WC requests a waiver of the requirement to submit a two-year plan pursuant to R. 103-690.C.(a)(1)(B), and the requirement of Reg. 103-690.1.B.(b)(1) to file annual reports updating the initial two-year plan.

Under Commission rules, a requirement may be waived where appropriate upon a finding that such waiver is not contrary to the public interest. *See* S.C. Code Regs. 103-803. As noted previously, the Commission's ETC regulations generally track the corresponding federal ETC regulations as of the date that the state regulations were promulgated. The filing of a two-year service improvement plan under the Commission's regulations mirrors the federal requirement, although for a shorter amount of time. *See* 47 C.F.R. § 54.202(a)(1)(ii)(requiring a five-year service improvement plan for ETC applicants). As discussed above, the FCC in this case waived the requirement that RDOF auction winning bidders seeking ETC designation submit a five-year service improvement plan.<sup>27</sup> While the FCC waiver is not controlling as to the South Carolina

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<sup>27</sup> *See supra*, n. 25.

requirement, the Commission has favorably considered waivers of the state-required plan where the FCC has already waived the federal counterpart requirement.<sup>28</sup>

In further support of a state plan waiver, WC submits that other required reporting, including its Form 481 and broadband deployment reports submitted to the Universal Service Administrative Company (“USAC”), will show WC’s progress towards meeting service build-out obligations. The availability of WC’s data submitted in connection with RDOF and other federal requirements will provide the Commission with functionally the same information and data required in a two-year plan. In lieu of filing a two-year plan, WC will make available to the Commission and ORS upon request all reports it is required to file with the FCC in connection with the RDOF and the Census Blocks.

Emergency Services. WC has demonstrated its ability to remain functional in emergency situations, as explained in Section V.B.1. above, in compliance with R. 103-690.C.(a)(2).

Consumer Protection and Service Quality Standards. WC has demonstrated that it will satisfy applicable consumer protection and service quality standards, as explained in Section V.B.3.d. above, in compliance with R. 103-690.C.(a)(3).

Local Service Plans. WC Fiber will offer local service plans comparable to those offered by the incumbent LEC in the service areas for which it seeks designation, as explained and shown in Section V.B.1. above and elsewhere in this application, all in compliance with R. 103-690.C.(a)(4).

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<sup>28</sup> See *In Re Application of Horry Telephone Cooperative, Inc. for Designation as an ETC in Certain Census Blocks in Georgetown and Marion Counties for Purposes of Receiving Federal CAF Phase II Support*, Docket No. 2018-346-C, Order No. 2019-48(A) at ¶ 3, p. 24 (S.C.P.S.C. Jan. 25, 2019) (hereinafter, “HTC ETC Order”).



Affidavit as to Services, Advertising, and Equal Access. Attached to this application, as required by R. 103-690.C.(a)(5)-(7), is the Affidavit of Jeff Small, an officer of WC, certifying that WC acknowledges that the FCC may, to the extent allowed under law, require it to provide equal access to long distance carriers in the event that no other ETC is providing equal access within the service area<sup>29</sup>; that WC does offer or will offer the services supported by federal universal service support by using its own facilities or a combination of its own facilities and resale of another carrier's services; and that it does or will advertise in a media of general distribution the availability of such services, including Lifeline services and applicable charges.

## **2. WC's ETC Designation in the Census Blocks Will Serve the Public Interest**

WC's designation as an ETC for the Census Blocks will allow it to build out services to unserved areas using federal funding, bringing the benefits of added voice and high-speed broadband services to these areas. Accordingly, it is in the public interest to designate WC as an ETC in the Census Blocks. Once the Commission grants WC's ETC application and the FCC approves WC for funding, WC will receive \$253,740.00 over a ten-year period to provide voice and broadband services to those residing and working in the Census Blocks.

The availability of WC's RDOF supported voice and broadband services will have a positive effect on unserved or underserved areas in the Census Blocks. WC is committed to expanding access to these services that will enable consumers to access new opportunities of all kinds, including education, healthcare, business, civic engagement, and personal connection. New opportunities may include starting a business, taking online classes, or seeing friends and family, among many other possibilities. Expanded voice and broadband service will increase these

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<sup>29</sup> However, equal access is generally no longer a requirement under the FCC's universal service rules, previously existing under 47 C.F.R. § 54.202(a)(5). Nonetheless, in satisfaction of the Commission's rules and to the extent the FCC may lawfully impose such a requirement in the future, WC certifies that it will comply.

opportunities for the people of South Carolina being served by WC in its respective RDOF Census Blocks.

Moreover, South Carolinians will particularly benefit from WC's designation as an ETC. WC is widely recognized as a premier provider of voice and broadband Internet offerings that relies on advanced systems, technologies, and infrastructure. WC provides voice and broadband Internet services to hundreds of thousands of residential customers in 18 states.

South Carolina consumers will further benefit from WC's experience as a Lifeline service provider. WC and its affiliates have substantial experience in providing Lifeline services to low income consumers and communities. This will further facilitate WC's swift offering of needed services for qualifying low-income customers in the Census Blocks.

### **3. Request to Waive "Wire Center" Area Requirement**

WC seeks ETC designation to serve the RDOF Census Blocks listed in **Exhibit A** and highlighted in **Exhibit B**. Because the FCC awarded RDOF funding on a Census Block basis, WC requests a waiver of R. 103-690.C.(b) to the extent it would prohibit the designation of WC as an ETC in an area smaller than a "wire center."

Under the state's default rules, the Commission is not to designate a service area to an ETC that is smaller than an entire wire center. S.C. Code Ann. Regs. 103-690.C.(b). The FCC, however, expressly targeted RDOF Auction funding at the Census Block level. In accordance with 47 U.S.C. § 254(e) and 47 C.F.R. § 54.7(a), WC may only use the federal universal service support provided under the RDOF auction for the provision, maintenance, and upgrading of facilities and services for which the universal service support is intended. Here, because the RDOF expressly requires bidders to cover census blocks, WC may only use RDOF Auction support funds to serve the Census Blocks as awarded. Therefore, any attempted revision to the proposed service

areas as represented by the Census Blocks, regardless of intent to comply with state law, would likely prevent the funds from being used as a matter of law.

To further the public interest and promote added service to underserved areas, WC asks that the Commission waive that portion of R. 103-690.C.(b) that provides that the Commission shall not designate an ETC service area smaller than an entire wire center.

#### **VI. Conclusion and Request for Expedited Review**

In order to be eligible for the federal funding available to WC under the RDOF, the FCC requires that WC be designated as an ETC in the areas for which it seeks support not later than June 7, 2021. For the reasons stated above, granting this application will serve the public interest by allowing WC to use available federal funding to bring robust voice and broadband service to certain unserved and underserved areas of South Carolina.

WC respectfully requests that the Commission grant this application in an expeditious manner to enable it to meet the FCC's deadline without having to pursue an extension. Attached hereto is the sworn Affidavit of Jeff Small], an officer of WC, attesting to the truth and accuracy of this application, and making the certifications required by Commission Regulation 103-690.C.(a)(5)-(7).

<signature page follows>

Respectfully submitted this 6th day of April, 2021.

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